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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2641 /2008.

PETITIONER : Smt. Droupati Kaiwartya
W/o Ramdulare Kaivartya,
aged about 31 years,
resident of village & Post -
Juna Bilaspur, Distt.Bilaspur (CG).

Versus

RESPONDENTS : 1. State of Chhattisgarh
Through : The Secretary,
Law & Legislative Election
Department, D.K.S.Bhawan, Raipur
(C.G.).

2. The Collector, Bilaspur,
Distt. Bilaspur (C.G.).

3. The District Election Officer,
Bilaspur (C.G.).

P. R. No. 21657/08
Presented by Shri C.K. Kothapalli
dated 22.09.08

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA :

XI-HC-78

(68)
AFR

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 2641/2003 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.10.2006

Shri Anoop Majumdar, counsel for the Petitioner.

Shri Sushil Dubey, Govt. Advocate for the State/ respondents.

Arguments heard.

Order dictated as follows:

ORAL ORDER
(10.10.2006)

Sunil Kumar Sinha, J,

By way of this writ petition filed under Article 226/227 of Constitution of India, petitioner has prayed for quashment of the order dated 09.7.2003 (Annexure P-5) passed by the Collector in the capacity of District Election Officer, Bilaspur, by which, while informing to the petitioner that her application for appointment to the temporary post of Assistant Grade-III (Lower Division Clerk) during the course of elections which was for the period from 01.2.2003 to 31.2.2003 and again upto 30.6.2003 was dismissed, he also informed that the petitioner did not have the requisite experience for the said post and her claim of experience on the ground of her appointment in the year 1995, would not be taken into account as the very appointment in the year 1995 was not in accordance with the instructions of the Government.

Learned counsel for the petitioner submits that the petitioner is poor and unemployed lady and on the basis of her experience gained by working during the course of elections, she

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.2641 **सन्** 2003

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

would have been appointed in the said tenures of elections also and the action is bad in law. He further submits that in future also such exigencies may arise before the Government and the case of this petitioner would not be considered on the basis of the observations made by the Collector/Election Officer that since her appointment as Assistant Grade-III (Lower Division Clerk) in the year 1995 was not in accordance with law, the work experience gained by the petitioner would not be considered and she will further be debarred if the future temporary employments are to be given on the same criteria. His prayer is that the said part of the observation made by the District Election Officer should be set aside by which it is stated that her work experience of the year 1995 would not be considered.

Taking experience of a person on a particular post and his/her nature of appointment on the said post are two different geneses. They cannot be co-related with each other so as to destroy the validity and importance of each other. It is a matter of common sense that even a person who has not been validly appointed, but has worked with interest, care and caution and devotion on a particular post will get experience of that post irrespective of the fact that his/her appointment was technically invalid in the eyes of law. Experience is a kind of property which a person gains out of repeated/continuous exercise which he/she undertakes during the course of assignment of a particular work, it is a process of gaining knowledge by doing and seeing things practically and it has got no nexus with the validity of his/her

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मामला क्रमांक W.P.-2641- **सन्** 2003

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

appointment for the said work and on the ground of procedural illegality in the appointment, his/her appointment may be cancelled, but it cannot be said that he/she has not gained experience of the said work when admittedly, he/she has worked on the particular post for which the appointment was initially made.

For the reasons stated above, it would be just and proper to dispose of this petition with an observation that if such an exigency arises in future, the experience of the petitioner which she got while working as Assistant Grade-III (Lower Division Clerk) in the year 1995, shall be taken into account and her case shall not be left consideration by not considering her past experience of the above period on the said post,and I direct accordingly.

This petition stands finally disposed of with the aforesaid directions/observations.

C.c. as per rules.

Sd/-
Sunil Kumar Sinha
Judge

Rao

13/10/04

P.T.O.